IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

RFA No.281/1998

Decided on. 23.4.2007

Airport Jubbarhatti and others **…Appellants.**

Versus

Devi Ram and others. **…Respondents**

Coram

The Hon'ble Mr. Rajiv Sharma, J.

Whether approved for reporting ?[1]*.No.*

For the Appellants : **Mr.M.S. Chandel, Advocate General with Mr. M.A. Khan and Ms. Meenakashi Sharma, Deputy Advocates General**

For the respondent **Mr. Ramakant Sharma, Advocate.**

Rajiv Sharma, J.

This first appeal is directed against the award dated 5.1.1998 made by learned District Judge, Solan, H.P. in land reference petition No. 21-S/4 of 1996.

The brief facts necessary for the adjudication of this first appeal are that the requisite notification under section 4 of the Land Acquisition Act, 1894 was published in H.P. Rajpatra on 30th June, 1990 in two Hindi daily newspapers, Hindi Milap and Dainik Tribune on 1.7.1990. The declaration was subsequently issued on 6.8.1991 which was published in H.P. Rajpatra on 7.9.1991 and two vernacular newspapers i.e. Hindi Milap and Veer Pratap on 22.8.1991. The Collector made award on 7th August, 1993 being award No. 21/93 in respect of land measuring 10 bighas 6 biswas pertaining to Nataila. The acquisition also included the land of the respondent in village Nataila as under:

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment***? No.

Sr. No.	Petition Number	Khasra No.& area	Kind of land.
1.	21-S of 1996	213/1 0-2 bigha	Ghasni
		218/1 0-10 bigha	Kuhl
		0-7 bigha	Katul

The Collector assessed the market value of the land as under:

1.	Katul	Rs. 1,78,600/- per bigha
2.	Bangar Awal	Rs. 1,17,800/- per bigha
3.	Bangar Doem	Rs. 83,600/- per bigha.
4.	Banjar Kadeem	Rs. 17,100/- per bigha.
5.	Gair Mumkin	Rs. 5,700/-

The respondent feeling aggrieved by the award made by the Collector approached the learned District Judge under section 18 of the Land Acquisition Act, 1894. The learned District Judge vide award dated 5.1.1998 enhanced the compensation by granting the rate of Rs. 2,08,620/- per bigha. The appellants are aggrieved by the award passed by the learned District Judge in land reference No. 21-S/4 of 1996 dated 5.1.1998.

Mr. M.S. Chandel, learned Advocate General appearing on behalf of the appellants has submitted that the award dated 5.1.1998 passed by the Collector is not sustainable.

Mr. Ramakant Sharma, Advocate appearing on behalf of the respondent has supported the award dated 5.1.1998 passed by learned District Judge.

The main contention of the learned Advocate General is that the learned District Judge has failed to take into consideration the variation of average price of lands of village Kafled, Nataila and adjoining village Kot. As per Ex.P-8, the copy of average price of the land of Mauza Kafled

between 16th June, 1989 to 15 June, 1990 prior to publication of notification under section 4 of the Land Acquisition Act, 1894 was as under:

1.	Kuhl	Rs. 10,000,00/- per bigha
2.	Katul	Rs. 7,52,000/- per bigha
3.	Bangar 1	Rs. 5,20,000/- per bigha
4.	Bangar II	Rs. 3,52,000/- per bigha
5.	Bangar Som	Rs. 1,76,000/- per bigha
6.	Banjar Kadeem	Rs. 72,000/- per bigha
7.	Ghasni	Rs. 24,000/- per bigh

As per Ex.PW-3/A, the average price from 1.7.1989 to 30.6.1990 of the different kind of land in Mauza Nataila in which the land of the respondent was acquired was as under:

Katul	Rs. 8,35,555/- per bigha
Bangar Awal	Rs. 5,51,111/- per bigha
Bangar Dom	Rs. 4,44,444/- per bigha
Bangar Som	Rs. 2,22,222/- per bigha
Bangar Kadeem	Rs. 88,888/- per bigha
Ghasani	Rs. 26,666/- per bigha

The average price in the adjoining village Kot whereby the land was also acquired for the purpose of construction of Aerodrome was very much less as compared to Mauja Kafled and Nataila. The average of the land from 1.6.1989 to 30.6.1990 of Mauza Kot was as under:

1.	Katul	Rs. 16,920/- per bigha
2.	Bangar Awal	Rs. 11,160/- per bigha
3.	Bangar Dom	Rs. 7,920/- per bigha
4.	Bangar -III	Rs. 3,420/- per bigha

5.	Banjar Kadeem	Rs. 1,620/- per bigha
6.	Ghasni	Rs. 540/- per bigha

Mr. Ramakant Sharma, Advocate appearing on behalf of the respondents has strenuously relied upon Ex.PW-1/A which is the copy of award No. 19 dated 7.8.1993 pertaining to Mauza Kafled in District Shimla vide which the land was acquired for the construction of Airport at Jubbarhatti. Vide this award, Banjar land was paid @ Rs. 2,08,620/- per bigha and Ghasani @ Rs. 14,224/- per bigha.

The learned District Judge in these circumstances has rightly relied upon the Ex.PW-1/A, the copy of the award dated 7.8.1993 whereby a compensation of Rs. 2,08,620/- per bigha was assessed by the Collector himself. The value assessed by the Collector of adjoining village Kafled is fair assessment on the basis of average price depicted from 16th June, 1989 to 15th June, 1990 as well as the average price from 1.7.1989 to 30.6.1990 in Mauza Nataila. There is neither any jurisdictional error nor any procedural irregularity in the award dated 5.1.1998 and the same is upheld.

The Hon'ble Supreme has held in ***the State of Madras V. A.M. Nanjan and another***, AIR 1976 SC 651 that if the land involved in the awards is comparable land in the reasonable proximity of the acquired land, the rates found in the award would be a reliable material to afford a basis to work upon for determination of the compensation on a later date. Their Lordships of the Hon'ble Supreme Court have held as under:

> **"We are unable to accept the submission that the awards in question cannot be taken as safeguides in the matter of determination of compensation. As a matter of fact these awards given by the Collector are at least relevant material and may be in the nature of admission with regard to the value of the land on behalf of the State and if the land involved in the awards is**

comparable land in the reasonable proximity of the acquired land, the rates found in the said documents would be a reliable material to afford a basis to work upon for determination of the compensation on a later date. The awards, therefore, cannot be dismissed as inadmissible for the purpose of determination of the compensation."

Accordingly the first appeal preferred by the appellants is dismissed with no order as to costs.

(Rajiv Sharma), Judge

April 23, 2007
Awasthi